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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,704	08/19/2003	Wendell C. Hull	31091-1001	6701

5179 7590 04/25/2006

PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

EXAMINER

RIVELL, JOHN A

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/644,704	Applicant(s) HULL ET AL.	
	Examiner John Rivell	Art Unit 3753	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1, 42-68 and 70-81.
Claim(s) objected to: 93.
Claim(s) rejected: 89, 91 and 92.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☒ Other: See page 2+.

For purposes of appeal, the proposed amendment(s) will be entered and the proposed rejection(s) detailed below will be included in the Examiner's Answer. To be complete, such rejection(s) must be addressed in any brief on appeal.

Upon entry of the amendment(s) for purposes of appeal:

Claims 2-41, 69, 82-88 and 90 will be canceled.

Claims 1, 42-68 and 70-81 would be allowed.

Claim 93 would be objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 89, 91 and 92 would be rejected for the reasons as follows.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 89 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitz et al. in view of Pulling.

The patent to Schmitz et al. discloses an "apparatus for regulating the flow of a gas between a high-pressure zone (e.g. the inlet) and a zone of lower pressure (e.g. the outlet), said apparatus comprising: a hollow body (10) having an axis; an adjustment handle (36); a first chamber (read at the inlet 12) and a second chamber (read at the outlet 18), said chambers defined within said body (10); a nozzle (read on the surfaces of the passageway 16 as the cross section presented to fluid flow is decreased relative to that at the inlet) within said body and separating said chambers, said nozzle having a minimum diameter (at the smallest cross section thereof) defining a passage (at 16) for

the passage of gas between said chambers; and a stem (22) movable axially within said passage and comprising: a distal portion (any portion of stem 22 within the total stroke length of the stem from full open to full closed position; see further explanation below) having a diameter less than said minimum diameter of said nozzle, said distal portion extending at least partially into said first (inlet) chamber (when the valve is manually positioned in any open position); a proximate portion (the remainder of stem 22 above that portion of stem 22 which will never pass the plane of the seat), within said second (outlet) chamber,... extending into said passage (16), wherein axial movement of said stem (22) varies the position of said proximate portion in relation to said nozzle; said proximate portion of said stem (at read above) comprises a threaded means (at 46) for separably attaching said stem (22) to said adjustment handle (36), said threaded means comprising barrel means (at the lower end of thread 42 and the upper surface of gland 30) for containing thread wear debris:... and (the valve head 24 is) contactable with said nozzle to seal said passage against the passage of gas" as recited in claim 89.

Thus the patent to Schmitz et al. discloses all the claimed features with the exception of having " the proximate portion removably connectable to the distal portion" and "an o-ring seat between said proximate portion and said distal portion of said stem and contactable with said nozzle to seal said passage against the passage of gas".

The patent to Pulling discloses that it is known in the art to employ an o-ring seat 9, between a threaded together proximate portion 2 and a distal portion 4 of a valve stem and contactable with a nozzle or fluid passageway within seat 5 to seal the passage against the passage of fluid, wherein, the distal portion and the proximate portion receive the o-ring seat 9 for the purpose of perfecting fluid tight closure of the valve head against the valve seat.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Schmitz et al. an o-ring seat between a threaded together proximate portion and distal portion of the stem 22 and contactable with the nozzle to seal the passage 16 against the passage of gas; wherein the distal portion is removably connectable to the proximate portion of the stem 22 for the purpose of perfecting fluid tight closure of the valve head against the valve seat as recognized by Pulling.

Relative to the previous reading of the claim(s) verses Schmitz et al. in view of Pulling, the above reverses the reading of the "first" and "second" chambers to now read on Schmitz et al as disclosed. That is the "first" chamber is read on the inlet at 12 and the "second" chamber is read at the outlet 18. Additionally, relating to the claimed "proximate" and "distal" portions of the stem, a "stem" is read in Schmitz et al. as that portion of element 22, from the line contact with the seat upward. The length of this "stem" from the line contact area with the seat to the cross section which meets the seat plane after the valve is moved to the fully open position is read as the claimed "distal portion", any portion of which, when the valve is fully open is located "in the first (inlet) chamber" as recited in the claim. The "proximate portion" of the stem is thus read on the remainder of the stem upwards from that area which meets the seat plane when in the fully open position.

Claims 91-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitz et al. in view of Pulling as applied to claim 89 above, further in view of Sebenste.

The patent to Schmitz et al., as modified by Pulling, discloses all the claimed features with the exception of having a guide pin received within a guide hole and a

threaded "means" separately attaching the handle to the stem including a closed end barrel to collect debris.

The patent to Sebenste discloses that it is known in the art to employ a "guide pin" at 25 received within a guide "hole" at the groove 26 for guiding reciprocating movement of the valve without rotation of the valve head and a separate threaded "barrel" at internal threaded bore 13 for the purpose of non rotationally reciprocating the valve element and to collect debris at the bottom of the "barrel" from the actuator threads.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Schmitz et al., as modified by Pulling, a guide pin and cooperating hole and a separate threaded barrel for the purpose of non rotationally reciprocating the valve element and to collect debris at the bottom of the "barrel" from the actuator threads as recognized by Sebenste.

The objection to claims 78-81 regarding potential double patenting is overcome by the amendment.

Applicants indication of a change of address is noted. However, as this does not comply with 37 CFR 1.33 (See M.P.E.P. 601.03) and specifically that portion which reads:

"The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record"

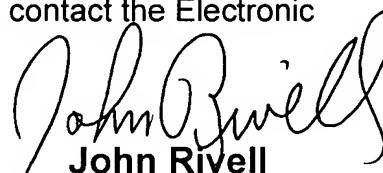
the official correspondence address has not been changed. Applicant is also reminded of the obligation under 37 CFR 11.11 of a registered attorney or agent to notify the Attorney's Roster by letter of any change of his or her address for entry on the

register is separate from the obligation to file a notice of change of address filed in individual applications.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John Rivell
Primary Examiner
Art Unit 3753

j.r.